IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN SMITH,	:	**Civil No. 3:21-cv-1129**
	:	
Petitioner	:	
	:	**(Judge Sylvia H. Rambo)**
v.	:	
	:	
ADAM OGLE, Warden of York	:	
County Prison, et al.,	:	
	:	
Respondents	:	

ORDER

AND NOW, this 10th day of May, 2023, upon consideration of Petitioner John

Smith's petition (Doc. 1) for writ of habeas corpus, the report (Doc. 8) of Magistrate

Judge Karoline Mehalchick, and Respondent Ogle's objections (Docs. 9-10) thereto,

and for the reasons set forth in the accompanying memorandum of law, IT IS

HEREBY ORDERED that:

1. The report (Doc. 8) of Magistrate Judge Mehalchick is ADOPTED.

2. Smith's petition (Doc. 1) for writ of habeas corpus is GRANTED to the
    extent that it seeks an individualized bond hearing before an
    immigration judge.

3. An immigration judge shall conduct an individualized bond hearing
    within 30 days of the date of this order.

4. At the hearing, the immigration judge shall make an individualized
    inquiry as to whether Smith is a flight risk or a danger to the community
    in accordance with *Santos v. Warden Pike County Correctional
    Facility*, 965 F.3d 203 (3d Cir. 2020).

5. At the hearing, the government shall bear the burden of putting forth clear and convincing evidence that continued detention is necessary "to prevent [Smith] from fleeing or harming the community." *Id.* at 214 (citing *Chavez-Alvarez v. Warden York County Prison*, 783 F.3d 469, 477-78 (3d Cir. 2015)).

6. The parties shall report to the court the outcome of the individualized bond hearing within seven days of the date of the immigration judge's hearing.

7. If the immigration judge fails to convene an individualized bond hearing within 30 days of the date of this order, the court will reopen this case and conduct its own individualized bond hearing under the standards governing bail in habeas corpus proceedings.

8. The Clerk of Court is directed to close this case.

s/Sylvia H. Rambo
Sylvia H. Rambo
United States District Judge
Middle District of Pennsylvania